

1 SENATE BILL NO. 81

2 INTRODUCED BY T. SCHMIDT

3 BY REQUEST OF THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "PROFESSIONAL PERSON" TO INCLUDE LICENSED
6 PSYCHOLOGISTS; AND AMENDING SECTION 53-21-102, MCA."7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:9
10 **Section 1.** Section 53-21-102, MCA, is amended to read:11 **"53-21-102. Definitions.** As used in this part, the following definitions apply:12 (1) "Abuse" means any willful, negligent, or reckless mental, physical, sexual, or verbal mistreatment or
13 maltreatment or misappropriation of personal property of any person receiving treatment in a mental health facility
14 that insults the psychosocial, physical, or sexual integrity of any person receiving treatment in a mental health
15 facility.16 (2) "Behavioral health inpatient facility" means a licensed facility of 16 beds or less designated by the
17 department that:18 (a) may be a freestanding licensed hospital or a distinct part of another licensed hospital and that is
19 capable of providing inpatient psychiatric services, including services to persons with mental illness and
20 co-occurring chemical dependency; and21 (b) has contracted with the department to provide services to persons who have been involuntarily
22 committed for care and treatment of a mental disorder pursuant to this title.23 (3) "Board" or "mental disabilities board of visitors" means the mental disabilities board of visitors created
24 by 2-15-211.25 (4) "Commitment" means an order by a court requiring an individual to receive treatment for a mental
26 disorder.

27 (5) "Court" means any district court of the state of Montana.

28 (6) "Department" means the department of public health and human services provided for in 2-15-2201.

29 (7) "Emergency situation" means a situation in which any person is in imminent danger of death or bodily
30 harm from the activity of a person who appears to be suffering from a mental disorder and appears to require

1 commitment.

2 (8) "Friend of respondent" means any person willing and able to assist a person suffering from a mental
3 disorder and requiring commitment or a person alleged to be suffering from a mental disorder and requiring
4 commitment in dealing with legal proceedings, including consultation with legal counsel and others. The friend
5 of respondent may be the next of kin, the person's conservator or legal guardian, if any, representatives of a
6 charitable or religious organization, or any other person appointed by the court to perform the functions of a friend
7 of respondent set out in this part. Only one person may at any one time be the friend of respondent within the
8 meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the
9 respondent. The court may at any time, for good cause, change its designation of the friend of respondent.

10 (9) (a) "Mental disorder" means any organic, mental, or emotional impairment that has substantial
11 adverse effects on an individual's cognitive or volitional functions.

12 (b) The term does not include:

13 (i) addiction to drugs or alcohol;

14 (ii) drug or alcohol intoxication;

15 (iii) mental retardation; or

16 (iv) epilepsy.

17 (c) A mental disorder may co-occur with addiction or chemical dependency.

18 (10) "Mental health facility" or "facility" means the state hospital, the Montana mental health nursing care
19 center, or a hospital, a behavioral health inpatient facility, a mental health center, a residential treatment facility,
20 or a residential treatment center licensed or certified by the department that provides treatment to children or
21 adults with a mental disorder. A correctional institution or facility or jail is not a mental health facility within the
22 meaning of this part.

23 (11) "Mental health professional" means:

24 (a) a certified professional person;

25 (b) a physician licensed under Title 37, chapter 3;

26 (c) a professional counselor licensed under Title 37, chapter 23;

27 (d) a psychologist licensed under Title 37, chapter 17;

28 (e) a social worker licensed under Title 37, chapter 22; or

29 (f) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in
30 psychiatric mental health nursing.

1 (12) (a) "Neglect" means failure to provide for the biological and psychosocial needs of any person
2 receiving treatment in a mental health facility, failure to report abuse, or failure to exercise supervisory
3 responsibilities to protect patients from abuse and neglect.

4 (b) The term includes but is not limited to:

5 (i) deprivation of food, shelter, appropriate clothing, nursing care, or other services;

6 (ii) failure to follow a prescribed plan of care and treatment; or

7 (iii) failure to respond to a person in an emergency situation by indifference, carelessness, or intention.

8 (13) "Next of kin" includes but is not limited to the spouse, parents, adult children, and adult brothers and
9 sisters of a person.

10 (14) "Patient" means a person committed by the court for treatment for any period of time or who is
11 voluntarily admitted for treatment for any period of time.

12 (15) "Peace officer" means any sheriff, deputy sheriff, marshal, police officer, or other peace officer.

13 (16) "Professional person" means:

14 (a) a medical doctor;

15 (b) an advanced practice registered nurse, as provided for in 37-8-202, with a clinical specialty in
16 psychiatric mental health nursing; or

17 (c) a licensed psychologist; or

18 ~~(e)~~(d) a person who has been certified, as provided for in 53-21-106, by the department.

19 (17) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a
20 professional person.

21 (18) "Respondent" means a person alleged in a petition filed pursuant to this part to be suffering from a
22 mental disorder and requiring commitment.

23 (19) "State hospital" means the Montana state hospital."

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